

REMARKS/ARGUMENTS

Claims 12-35 are active in this application. Support for the amendment to Claim 13 is found on page 16. Support for the amendment to Claim 14 is found on pages 4-6.

Applicants wish to thank Examiner Prouty for the courteous discussion held with the Applicants' undersigned representative on December 11, 2002 and the helpful suggestions provided throughout the Official Action. The claims have been amended consistent with these suggestions. Therefore, the objection to Claim 13; the rejections under 35 U.S.C. § 112, first and second paragraphs; and the rejection under 35 U.S.C. § 102(a) over McClaren have been addressed by amendment. As such, withdrawal of these rejections is requested.

The rejection of Claims 14, 20, 26 and 32 under 35 U.S.C. § 102() over Tang et al. (WO 01/57190) is respectfully traversed.

Applicants submit that the disclosure by Tang et al. in WO 01/57190 is not a description of the invention before the invention thereof by the Applicants. Applicants were in possession of the presently claimed DNA before the February 3, 2000 filing date of SEQ ID NO:2482 in Tang et al. In support of this statement, Applicants enclose herewith a declaration of the named inventors (copies of the declaration signed by the inventors except for Mr. Kojima are being filed herewith. A copy of the declaration signed by Mr. Kojima will be filed shortly). The Applicants state that they had reduced to practice the isolated DNA claimed in this application prior to February 3, 2003. The Declaration is supported by the publication in Seikagaku, which is of record in this application and describes a cDNA which corresponds to the presently claimed DNA. Note the publication date of Seigagaku was August 25, 1999. Applicants also note that a declaration was previously provided to the Office declaring that the work in this publication was, in fact, the work of the presently named inventors.

Since the Tang et al. document is not a publication before the invention by Applicants, Tang et al is not believed to be available as prior art.

Therefore, Applicants respectfully request that the rejections under 35 U.S.C. § 102(e) and under 35 U.S.C. § 103(a) be withdrawn.

Applicants also request that the present application be passed on to issuance.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Norman F. Oblon
Attorney of Record
Registration No. 24,618



22850

Tel: (703) 413-3000
Fax: (703) 413 -2220

Daniel J. Pereira, Ph.D.
Registration No. 45,518